

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

KIM L. FRANKLIN,
Plaintiff,

v.

Civil Action No. 3:16-cv-00839-JAG

VIRGINIA GOVERNOR
TERRENCE RICHARD MCAULIFFE,
Defendant.

OPINION

The plaintiff seeks disclosure of financial holdings from Terrence McAuliffe, Governor of Virginia, under the Freedom of Information Act (“FOIA”). FOIA provides the public with access to certain information from federal agencies. *See* 5 U.S.C. § 552. The Virginia Freedom of Information Act (“Virginia FOIA”) provides the public with access to public records held by public bodies, public officials, and public employees. *See* Va. Code Ann. § 2.2-3700.

To the extent the complaint attempts to raise a claim under FOIA, it fails to state a claim upon which this Court could grant relief. In proceeding *in forma pauperis*—as the plaintiff does in this case—“the court shall dismiss the case at any time if the court determines that . . . the action . . . fails to state a claim on which relief may be granted.” 28 U.S.C. § 1915(e)(2)(B); *see Eriiline Co. S.A. v. Johnson*, 440 F.3d 648, 656 (4th Cir. 2006). In this case, the plaintiff cannot state a claim under FOIA against Governor McAuliffe because Governor McAuliffe is a state official, not a federal agency.

To the extent the complaint attempts to raise a claim under Virginia FOIA, this Court lacks jurisdiction. Federal courts are courts of limited jurisdiction. Specifically, federal courts can only hear cases that present a federal question, 28 U.S.C. § 1331, and cases for over \$75,000 that arise between citizens of different states, 28 U.S.C. § 1332. If a case fits neither of these

situations, the court lacks subject-matter jurisdiction. "If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action." Fed. R. Civ. P. 12(h)(3). In this case, a claim under Virginia FOIA does not present a federal question, and does not arise between citizens of different states.

Accordingly, regardless of whether the plaintiff brings a claim under FOIA or Virginia FOIA, the Court must dismiss the case.

The Court will enter an appropriate order.

Let the Clerk send a copy of this Opinion to the pro se plaintiff.

Date: October 20, 2016
Richmond, VA


John A. Gibney, Jr.
United States District Judge